IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10778 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ANKLESHWAR NAGRIK SAHKARI BANK LTD. - Petitioner(s)

Versus

DINESHCHANDRA C HAZARIWALA - Respondent(s)

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Appearance :

MRS KETTY A MEHTA for Petitioner No(s).: 1.

MR MS MANSURI for Respondent No(s).: 1.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 14/07/2005

ORAL JUDGMENT

1. This petition is directed against the interlocutory order dated 30th November, 1998 passed by the Industrial Tribunal, Baroda in Appeal [I.C.] No. 4 of 1998, whereby the Industrial Tribunal has stayed the

order passed by the Labour Court, till the final disposal of the main B.I.R. Application, and has directed that if the respondent reports for duty, he shall do the work entrusted by the Bank, of the level of his post.

2. The short facts of the case are that the respondent was initially appointed as a Clerk in the petitioner Bank in the year 1965. He was promoted to the post of Head Clerk in January, 1972, and as Accountant in November, 1972. Thereafter in the year 1984, the respondent was promoted as Additional Manager and as Manger in the year 1985.

2.1. Thereafter by Resolution No. 77 the Managing Committee of the petitioner Bank in its meeting dated 9th August, 1997, has decided that names may be requisitioned from the Employment Exchange for appointment of one Peon and four Guards. It is the case of the petitioner Bank that the respondent in addition to requisitioning the names from the Employment Exchange for the aforesaid posts, also called the name of his son for the post of clerk. In view of that the petitioner Bank on 30th September, issued memo to the respondent. Since the allegations against the respondent were proved, the petitioner Bank issued show cause notice to the

respondent.

2.2. Pursuant to that the Managing Committee having considered the evidence and the documents placed before it, reverted the respondent on the lower post, without affecting the present pay.

2.3. Pursuant to that the respondent preferred BIR Application No. 3/98 before the Labour Court, Bharuch as well as an application below Exh. 2 for interim relief, under Section 119 (2) of the Bombay Industrial Relations Act, which came to be rejected vide order dated 26th May, 1998.

2.4. Feeling aggrieved by the said order, the respondent under Section 84 of the Act preferred an appeal before the Industrial Tribunal, Baroda. The Industrial Tribunal, Baroda after appreciating the materials produced before it, passed the impugned order. Hence, this petition.

3. While admitting this petition this Court vide order dated 18th December, 1998 had granted ad-interim relief whereby the impugned order was stayed with a clarification that the proceedings before the Labour

Court will not be stayed, pending the proceedings before this Court. Thereafter the said ad-interim relief was confirmed vide order dated 16th April, 1999. Since the interim relief is operating, it would be appropriate to continue the ad-interim relief granted by this Court till the BIR Application No. 3/98, pending before the Labour Court, Bharuch is finally disposed of.

4. I have heard the learned counsel for the parties and have perused the materials placed on record. In view of the peculiar facts and circumstances of the case, I am of the opinion that ends of justice would be met, if the Labour Court, Bharuch is directed to dispose of the BIR Application No. 3/98, while continuing the interim relief granted by this Court.

5. Therefore, without entering into the merits of the matter, the Labour Court, Bharuch is directed to hear and dispose of the BIR Application No. 3/98 pending before the Labour Court, Bharuch, as expeditiously as possible and preferably within a period of one year from the date of receipt of writ of this order. The interim relief granted by this Court vide order dated 18th December, 1998 shall continue till the said BIR

application is disposed of.

6. With the above observations and directions, the petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

7. The office is directed to send a writ of this order forthwith.

[K.S. JHAVERI, J.]

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